

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No.2936 of 1988

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For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1 & 2 : Yes

2 to 5 : No

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D N NASHIKKAR

Versus

STATE OF GUJARAT

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Appearance:

MR NALIN K THAKKER for Petitioner

Shri D.A. Bambhaniya for respondent no.1.

None present for other respondents.

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 19/11/97

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ORAL JUDGEMENT :

The petitioner originally has come up with the grievance in the Special Civil Application for a direction to the respondents for expeditious finalisation of his case of pension, gratuity, commutation of pension and leave travel concession amount of Rs.1770/-. He further prayed for award of interest.

2. The petitioner has subsequently filed an

affidavit in the Court sworn on 22.10.1991, stating that all the amounts which the petitioner has prayed towards his retiral dues have been paid to him. He further stated that pension arrears for the period from 1.9.1985 to 9.8.1988 were paid on 9.8.1988. Arrears of pension for the period from 1.9.1988 to 9.3.1989 has been paid on 9.3.1989.

3. However, he insisted his prayer for interest on delayed payment, at the rate of 12 per cent per annum. Similarly, for the delayed payment of amount of gratuity also he prayed for interest at the same rate. This petition has been filed by the petitioner in this Court in the month of May 1988 and thereafter this amount has been paid. The respondents have not offered any explanation, good, bad or indifferent for the delay in making payment of arrears of pension and the amount of gratuity.

4. This amount has been withheld on the ground that a departmental inquiry was pending against the petitioner. But in that departmental inquiry he was exonerated vide order dated 22.12.1986. After his exoneration in the departmental inquiry I do not find any justification in the action of the respondents to withhold the retiral benefits of the petitioner. It is, therefore, a case where without any cause or justification the amount of arrears of pension and gratuity of the petitioner have been withheld by the respondents and the petitioner, a retired employee has been deprived of receipt of those amounts in time and investment thereof with a proper financial institution.

5. The only explanation put forth by the counsel for respondent no.1 is that respondent no.2, Gujarat Water Supply and Sewerage Board, Gandhinagar, is the only concerned authority for payment of amount of pension and gratuity; and ultimately if the Court considers that on the delayed payment of gratuity and pension, interest be awarded to the petitioner, the liability lies with the Corporation.

6. The petitioner of this Special Civil Application stated that he retired as a government servant which fact has not been controverted. However, the petitioner is not concerned as to from which pocket the amount comes to him, but he is only concerned that for the delayed payment of retirementary benefits and the consequent loss suffered by him he should be reasonably compensated.

7. In result this Special Civil is allowed and it is

hereby ordered that on delayed payment of arrears of pension and gratuity the respondents are directed to pay interest to the petitioner at the rate of 12 per cent per annum.

On the amount of pension arrears -

From 1.9.1985 to 9.8.1988, on the amount of Rs.22,595/-.

From 1.9.1985 to 9.3.1989, on the amount of Rs.04,208/-.

On the amount of gratuity -

From 1.9.1985 to 9.8.1988 . . . . . Rs.43,440/-

From 1.9.1985 to 9.3.1989 . . . . . Rs.00,880/-

Amount of interest payable to the petitioner on the aforesaid amounts be calculated within the period of two months from the date of receipt of this order and payment thereof shall be made to the petitioner within one month thereafter.

8. Compliance of this order shall be reported to this Court by the respondents. The respondents are further directed to pay to the petitioner cost of this petition, which is quantified at Rs.2,000/- (Rupees two thousand only). Special Civil Application and rule stand disposed of in the aforesaid terms.

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